

REMARKS

Claims 1-37 are pending in the application. Reconsideration of this application is respectfully requested.

It is noted with appreciation that the Office Action has indicated that claims 2, 16, 30 and 34 would be allowable if rewritten to include all the limitations of the base claim and of any intervening claims.

The Office Action has objected to the specification on the ground that "is disclosed" should be deleted from line 1 of the Abstract of the Disclosure. The Abstract of the Disclosure has been so amended in the accompanying replacement Abstract of the Disclosure. It is submitted that the amendment obviates the objection to the specification and, therefore, that the objection should be withdrawn.

The Office Action rejects claims 1, 3-15, 17-29, 31-33 and 35-37 under 35 U.S.C 103(a) as unpatentable over U.S. Patent No. 5,960,170 to Chen et al., hereafter Chen, in view of U.S Patent No. 5,822,517 to Dotan, hereafter Dotan.

This rejection is traversed. Independent claims 1, 15 and 29 recite that an object is programmatically examined for a presence of a computer virus while using or assuming that the current state of the object is the same as the state of the object as it existed in the past. The Examiner contends that Chen teaches this recitation, citing column 9, lines 11-62, and column 12, lines 12-67. Neither the column 9 passage nor the column 12 passage contains any mention about a current state of an object and a state of the object as it existed at a time in the past. Accordingly, the Examiner's contention is erroneous.

The Examiner admits that Chen does not provide a database comprised of stored information that is descriptive of a state of the object as it existed at a point in the past as recited in independent claims 1, 15 and 29. The Examiner notes that Dotan teaches such a database, citing column 11, lines 28-48. The Examiner then concludes that it would have been obvious to one of ordinary skill in the art to modify Chen to include such a database.

This conclusion of obviousness is erroneous because it would change the principle of operation of Chen. Chen's principle of operation is to provide an iterative procedure that uses the current state of a computer system to determine what virus scanning and repair algorithms to employ, in order to reduce the amount of virus-related data sent from one computer to another, and to tailor the virus-related data for the particular condition of the target computer at the present time. A client executes a virus detection object with respect to objects stored in the client's memory. Chen does not teach that the stored objects are invoked or running programs. That is, Chen executes the virus detection object on non-invoked objects.

In contrast, Dotan executes a virus detection procedure on invoked program objects. To modify Chen as suggested by the Examiner changes Chen's principle of operation from one of executing the virus detection object on non-invoked objects to one of executing the virus detection object on invoked objects. This is a change in Chen's principle of operation, which causes the teachings of Chen and Dotan to be insufficient to render the claims prima facie obvious. See M.P.E.P., 2143.02 and cited cases.

The conclusion of obviousness is further erroneous because it lacks motivation. The Office Action suggestion to use Chen and Dotan in combination is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or

motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

Chen's intended purpose is to provide a centralized virus detection server that iteratively detects and treats viruses of client computers. In contrast, Dotan's procedure is not iterative. Therefore, to modify Chen as suggested by the Examiner would render Chen's system unsatisfactory for its intended purpose such that there is no suggestion or motivation to make the modification. See M.P.E.P. 2143.02 and cited cases.

With respect to claims 3, 6, 17 and 35, the Examiner cites Chen's Figure 4C as showing "locations storing object by 'Virus Identifier'". However, Figure 4C has nothing to do with storing information concerning archived objects within an object being scanned for viruses. In contrast, Figure 4C shows the structure of the database of virus signatures used by Chen. Figure 4C has nothing whatever to do with storing information about the presence or location of archived objects within an object to be scanned for viruses, as in the claimed invention.

With respect to claims 4, 18 and 36, the Examiner cites Chen's column 19, 1-38, and column 21, lines 3-39 concerning neural network features. However, neither of the cited passages (nor any other text in Chen) mentions or refers to neural networks or neural network input features at all. It is noted that Chen makes reference to "state engines", "knowledge modules" and "inference engines", but these are all different in kind from neural networks. In particular, such engines and modules do not make use of features in the way described in claims 4, 18 and 36.

For the reasons set forth above, it is submitted that the rejection of claims 1, 3-15, 17-29, 31-33 and 35-37 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

The Office Action cites a number of patents that were not applied in the rejections of the claims. These patents have been reviewed, but are believed to be inapplicable to the claims.

It is respectfully requested for the reasons set forth above that the objection to the specification be withdrawn, that the rejection under 35 U.S.C. 103(a) be withdrawn, that claims 1-37 be allowed and that this application be passed to issue.

Respectfully Submitted,

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